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BEFORE THE ARIZONA CORPORATION COMMISSION

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2010 FEB -4 | A 11: 56

Arizona Corporation Commission

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AZ CORP COMMISSION  
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FEB - 4 2010

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IN THE MATTER OF THE APPLICATION  
OF SULPHUR SPRINGS VALLEY  
ELECTRIC COOPERATIVE, INC. FOR A  
HEARING TO DETERMINE THE FAIR  
VALUE OF ITS PROPERTY FOR  
RATEMAKING PURPOSES, TO FIX A  
JUST AND REASONABLE RETURN  
THEREON, TO APPROVE RATES  
DESIGNED TO DEVELOP SUCH RETURN  
AND FOR RELATED APPROVALS.

E-01575A-09-0453

DOCKET NO. E-01575A-08-0328

SULPHUR SPRINGS VALLEY  
ELECTRIC COOPERATIVE,  
INC'S REQUEST FOR  
EXPEDITED PROCEDURAL  
ORDER REGARDING PETITION  
TO AMEND DECISION NO. 71274  
PURSUANT TO A.R.S. §40-252  
AND FOR RELATED  
AUTHORIZATION

**I. BACKGROUND.**

On January 14, 2010, Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative") filed with the Arizona Corporation Commission ("Commission") a *Petition to Amend Decision No. 71274 Pursuant to A.R.S. §40-252 and for Related Authorization* ("Petition"). At a Special Open Meeting of the Commission held on February 3, 2010 (Commission Staff Meeting), the Commission considered the Cooperative's Petition. Prior to going into Executive Session, the Commission's Chief Counsel briefly summarized the issues raised by the Cooperative in its Petition including: (i) the exigent reliability circumstances and (ii) the potential loss of American Relief and Recovery Act money if the Commission did not expeditiously grant the relief requested in the Petition. Following the Executive Session, the Commission adopted the following

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1 Motion:

2 ... grant Sulphur Springs Valley Electric Cooperative's Petition to Amend  
3 Decision No. 71274 pursuant to A.R.S. §40-252 and for related  
4 authorization for the purposes of further consideration of whether  
5 Decision No. 71274 should be amended and the request for related  
6 authorization should be approved; and also grant the Cooperative's request  
7 for expedited consideration of its Petition and direct the Hearing Division  
8 to conduct appropriate proceedings and prepare a recommended opinion  
9 and order for Commission consideration on an expedited basis. (Emphasis  
10 added.)

11  
12 **II. AN EVIDENTIARY HEARING IS NOT NECESSARY OR REQUIRED**  
13 **AND THE EXPEDITED PROCEEDING MAY TAKE THE FORM OF AN**  
14 **ORAL ARGUMENT.**

15 A.R.S. §40-252 provides that "the Commission may at any time... rescind, alter or  
16 amend any order or decision made by it" and the statute does not require an evidentiary  
17 hearing (emphasis added.) The Motion adopted by the Commission directs the Hearing  
18 Division to conduct "appropriate proceedings." This provides the Administrative Law  
19 Judge ("ALJ") discretion to determine what proceedings are "appropriate" under the  
20 circumstances in order to comply with the Commission's direction for expedited  
21 consideration of the Petition in light of the exigent circumstances raised in the Petition.  
22 SSVEC's Petition is completely separate from its Reconsideration/Moratorium  
23 Applications. Pursuant to A.R.S. §40-252, the Cooperative has the right to file such a  
24 Petition at any time and could have done so even if it had not filed its  
25 Reconsideration/Moratorium Applications last fall. Therefore, the Cooperative submits  
26 that in determining what are "appropriate proceedings," the ALJ should do so  
independently of the Reconsideration/Moratorium proceeding, which is on a separate  
path and is governed by its own procedural order and schedule.

The Petition deals directly with requirements set forth in Decision No. 71274  
("Decision") which was adopted after a full evidentiary hearing with an opportunity for

1 intervention. Therefore, in determining what are the appropriate proceedings, SSVEC  
2 submits that the ALJ should consider the underlying evidentiary record, the subsequent  
3 information filed by the Cooperative in compliance with the Decision (notably the  
4 Independent Feasibility Study), as well as the information set forth in the Petition,  
5 including the supplemental information filed in support thereof. There were no  
6 intervenors in the underlying rate case resulting in the Decision. The fact that there have  
7 been interventions in the subsequent Reconsideration/Moratorium proceeding has no  
8 bearing on the Commission's authority to amend its own Decision pursuant to A.R.S.  
9 §40-252 and grant the requested relief already contemplated by such Decision.

10 There is no need for an evidentiary hearing since the Cooperative has already  
11 submitted to the Commission all of the necessary information in order for the  
12 Commission to evaluate the Petition and to determine whether the granting of the  
13 requested relief is in the public interest. SSVEC submits that the proceeding to be  
14 conducted should take the form of an oral argument on the Petition and requests that such  
15 oral argument be held within the next two weeks, or as soon thereafter as the ALJ's  
16 calendar permits.<sup>1</sup>

### 17 **III. CONCLUSION.**

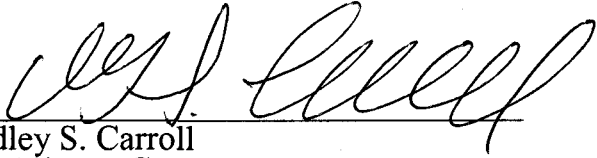
18 This is a very unusual situation that requires expeditious treatment that was  
19 expressly recognized by the Commission when it adopted the above-cited Motion.  
20 SSVEC respectfully requests that the ALJ expeditiously issue a procedural order  
21 scheduling oral argument on SSVEC's Petition within the next two weeks or as soon  
22 thereafter as possible.

23  
24  
25 <sup>1</sup> SSVEC has no objection to the intervenors in the Reconsideration/Moratorium proceeding providing oral  
26 argument. Moreover, Susan Scott, an intervenor in the Reconsideration proceeding but not an intervenor  
in the underlying rate case, filed a Response in Opposition to SSVEC's Petition to which SSVEC has  
replied.

1 RESPECTFULLY SUBMITTED this 4th day of February, 2010.

2 SNELL & WILMER L.L.P.

3  
4 By

  
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Attorneys for Sulphur Springs Valley  
Electric Cooperative, Inc.

5  
6 ORIGINAL and 13 copies of the foregoing  
7 filed this 4th day of February, 2010, with:

8  
9 Docket Control  
10 ARIZONA CORPORATION COMMISSION  
11 1200 West Washington  
12 Phoenix, Arizona 85007

13 COPIES of the foregoing hand-delivered  
14 this 4th day of February, 2010, to:

15 Steve Olea, Director  
16 Utilities Division  
17 ARIZONA CORPORATION COMMISSION  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 Lyn Farmer, Chief Administrative Law Judge  
21 Hearing Division  
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1 COPY of the foregoing mailed/e-mailed  
2 this 4th day of February, 2010, to:

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4 Hearing Division  
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17 By 